

proposed distribution financing arrangements will benefit the Variable Account and Amended Contract owners. Northbrook represents that the basis for that conclusion is set forth in a memorandum which will be maintained at its home office and will be available to the Commission upon request.

6. Northbrook represents that the Variable Account will invest only in management investment companies which undertake, in the event they should adopt a plan pursuant to Rule 12b-1 of the 1940 Act to finance distribution expenses, to have a board of directors or trustees, a majority of whom are not "interested persons" of the company within the meaning of Section 2(a)(19) of the 1940 Act, formulate and approve any such plan.

#### Conclusion

For the reasons set forth above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret M. McFarland,

*Deputy Secretary.*

[FR Doc. 95-24348 Filed 9-29-95; 8:45 am]

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[Rel. No. IC-21377; International Series Release No. 859; 812-9728]

#### The Canadian Depository for Securities Limited and the Investment Dealers Association of Canada; Notice of Application

September 26, 1995.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

**APPLICANTS:** The Canadian Depository for Securities Limited ("CDS") and the Investment Dealers Association of Canada ("IDA").

**RELEVANT ACT SECTIONS:** Order requested under section 6(c) of the Act that would exempt certain custodial arrangements from all provisions of the Act.

**SUMMARY OF APPLICATION:** Applicants request an order under section 6(c) to exempt the custodial arrangements for stripping certain Canadian debt securities from all provisions of the Act.

**FILING DATES:** The application was filed on August 22, 1995, and amended on September 20, 1995.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 23, 1995 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, CDS, 85 Richmond Street West, Toronto, Ontario, M5H 2C9 Canada; IDA, 121 King Street West, Suite 1600, Toronto, Ontario, M5H 3T9 Canada.

**FOR FURTHER INFORMATION CONTACT:** Sarah A. Buescher, Staff Attorney, at (202) 942-0573, or C. David Messman, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

#### Applicants' Representations

1. CDS is the major securities depository and clearing corporation in Canada. CDS is regulated by the Ontario Securities Commission and by the Commission des valeurs mobilières du Québec pursuant to provincial securities acts. CDS also has entered into an oversight agreement with the Bank of Canada, and CDS cooperates with the Office of the Superintendent of Financial Institutions. CDS is qualified to serve in Canada as an eligible foreign custodian for registered United States investment companies under rule 17f-5 of the Act.<sup>1</sup>

2. IDA is the national self-regulatory organization for the Canadian securities industry, and is the primary regulator of the Canadian fixed income market, including Canadian treasury bills and government and corporate bonds and debentures.

3. A group of CDS participants, including major IDA member firms and certain Canadian chartered banks and trust companies, have created payment strips ("Canadian Strips") by stripping Canadian securities into component parts for sale to investors. The most common form of Canadian Strips involves separating bonds of Canadian federal or provincial government issuers into individual interest and principal payment components. Each individual Canadian Strip is then separately held by the CDS participant or traded.

4. CDS participants sell Canadian Strips directly to investors and maintain a secondary market for the Strips. Canadian Strips are typically held by CDS participants as nominees for investors. The investors have accounts with CDS participants and are the beneficial owners of the Strips. CDS participants generally follow the instructions of beneficial owners with respect to matters relating to securities held by them as nominees, including matters relating to defaults.

5. Originally, CDS participants created Canadian Strips by physically separating individual coupons from bearer bond certificates ("Physical Strips"). Certificates underlying Physical Strips are in bearer form, held for CDS by Canadian banks or trust companies. In 1987, CDS participants began depositing Physical Strips into CDS and also began stripping Canadian debt securities electronically on a book-entry only basis under CDS procedures. The electronic ledger system at CDS separates the underlying securities held in participants' accounts into the corresponding book-entry only strip payment components ("Book-Entry Strips"). The certificates underlying Book-Entry Strips are registered on the books of the issuer in the name of CDS or its custodian. Canadian Strips include Physical Strips deposited with CDS and Book-Entry Strips which are recorded on CDS ledgers.

6. The total face value of Canadian Strips on deposit as of April 30, 1995 was Cdn \$130 billion, of which more than 95% relate to bonds issued or guaranteed either by Canada or a Canadian province, approximately 3.5% relate to Canadian corporate issuers, and the remainder relate to municipal and other Canadian issuers, such as colleges and hospitals, that are typically supported by provincial government credit. More than 85% of the face value of the Canadian Strips as of April 30, 1995 were Book-Entry Strips.

7. The CDS custody arrangements are governed by the CDS rules and operating procedures ("CDS Rules"), which allow participants to create

<sup>1</sup> See The Canadian Depository for Securities Limited (pub. avail. Aug. 4, 1994).

Canadian Strips and thereafter trade them separately, combine them to create strip payment packages, or reconstitute them into underlying bonds.

8. Upon default or certain other events, such as a change in tax laws, CDS would typically have certain rights as registered owner, including the right in some instances to declare the principal of all the underlying bonds then held by it to be immediately due and payable. Under the terms of the underlying bonds, such as those issued by the Government of Canada and Canadian provinces, the rights of a bondholder to act upon a default can be exercised typically only by a person recognized as a bondholder on the records of the bond issuer. Beneficial owners of the underlying bonds do not appear to have the legal right under applicable Canadian law to be recognized by the bond issuer. Accordingly, since bonds underlying Canadian Strips are commonly held in the name of CDS as bondholder, neither investors that beneficially own strips nor CDS participants acting as nominees for investors would be able to enforce their rights directly against the issuer of such underlying bonds upon a default.

9. Under CDS Rules, CDS exercises its rights as registered owner in accordance with instructions given by CDS participants. CDS participants that hold Strips as nominees for investors will instruct CDS generally in accordance with instructions received from such investors. In the event of an underlying bond default, CDS will endeavor to follow instructions from CDS participants to the extent practicable, and take such action as it, in good faith and in light of any legal advice it may receive, deems reasonable. Consequently, investors in Canadian Strips are affected in their right to enforce the terms of the underlying bond directly against the issuer because they may proceed against the issuer only by giving directions to CDS through their CDS participants. When the underlying bonds are in default or accelerated, the entitlement of each holder of Canadian Strips will be transformed into an undivided interest in the proceeds thereafter received on the underlying bonds, allocated among the holders based on the "proportionate economic interest" of their respective Canadian strips determined in accordance with a specified procedure.

10. CDS acts as receiving and disbursing agent and depository/recordkeeper for the Canadian Strips and, if directed to do so by the holders in accordance with the CDS Rules, to exercise any rights of a registered holder of the underlying bonds, including any

right to accelerate payment of principal thereunder. CDS has no authority to exercise any investment discretion at any time with respect either to any payments received or to any underlying bonds generally.

11. Any offers and sales of Canadian Strips to United States investors will be made in full compliance with applicable United States securities laws, including those relating to registration, disclosure, and investor suitability requirements.

#### Applicants' Legal Analysis

1. Section 3(a)(3) of the Act defines an investment company as any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.

2. Applicants recognize that the CDS custody arrangements may be viewed as creating an investment company within the meaning of section 3(a)(3) of the Act by virtue of the procedures governing the exercise of remedies and the allocation of any payments subsequently received. The CDS custody arrangements may be viewed as constituting a separate issuer that both (a) issues the Strips as securities with enforcement and payment rights that differ from the enforcement and payment rights of the underlying bonds and (b) holds the underlying bonds as separate securities in the CDS arrangement. An issuer that issues securities such as the Strips and holds other securities such as the underlying bonds may be an investment company within the meaning of section 3(a)(3).

3. Applicants request an order under section 6(c) of the Act exempting the CDS custody arrangements from all provisions of the Act. Section 6(c) provides that the SEC may exempt any person or transaction from any provision of the Act or any rule thereunder to the extent that such exemption is necessary in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants represent that the nature of the Canadian Strips and the limited activities of the applicants are not of a character intended to be regulated by the Act and do not give rise to the abuses against which the Act was directed. CDS is not involved in a general program of investing, trading or dealing in securities. CDS does not

exercise any investment discretion, and performs administrative functions.

5. The investor in Canadian Strips is aware of the issuer of the bonds underlying the Canadian Strips at the time of purchase. Applicants represent that, since the Canadian Strips are sold exclusively on the basis of the credit of the bond issuer, purchasers look ultimately to the issuer for their assurance of repayment, rather than to CDS.

6. Applicants represent that, given the remoteness of any claims of CDS creditors, the CDS custody arrangements do not appear to present any significant credit risk in addition to that presented by the investment in the underlying bonds themselves.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret M. McFarland,

*Deputy Secretary.*

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## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

**ACTION:** Notice of reporting requirements submitted for review.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

**DATES:** Comments should be submitted on or before November 1, 1995. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

**COPIES:** Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

#### FOR FURTHER INFORMATION CONTACT:

*Agency Clearance Officer:* Georgia Greene, Small Business Administration, 409 3RD Street, SW., 5th Floor, Washington, DC 20416, Telephone: (202) 205-6629.

*OMB Reviewer:* Donald Arbuckle, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.